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DEPARTMENT OF COMMERCE

International Trade Administration

A-533-840

Certain Frozen Warmwater Shrimp from India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: Avanti Frozen Foods Private Limited (Avanti Frozen) requested a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. The Department of Commerce (Department) is initiating this changed circumstances review and preliminarily determining that Avanti Frozen is the successor-in-interest to Avanti Feeds Limited (Avanti Feeds).

DATES: Effective [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: E. Whitley Herndon, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-6274.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, the Department published in the Federal Register an antidumping duty order on shrimp from India.¹ In the tenth administrative review of the Order, Avanti Feeds was assigned a cash deposit rate of 2.20 percent.²

¹ See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India, 70 FR 5147 (February 1, 2005) (Order).

² See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; 2014–2015, 81 FR 62867 (September 13, 2016) (10th AR).

On September 7, 2016, Avanti Frozen requested that, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b), the Department conduct a changed circumstances review of the Order to confirm that Avanti Frozen is the successor-in-interest to Avanti Feeds.³ In its submission, Avanti Frozen explained that Avanti Feeds undertook a business reorganization and transferred its shrimp business to its subsidiary company, Avanti Frozen.⁴ The domestic industry did not file any comment for these preliminary results.

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.⁵ The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

Initiation and Preliminary Results

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from, an interested party for a review of an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. As indicated in the “Background” section, we received information indicating that Avanti Feeds has transferred its shrimp business to Avanti Frozen.

³ See Letter from Avanti Frozen entitled “Frozen Warmwater Shrimp from India: Request to Initiate a Successor-in-Interest Changed Circumstances Review,” dated September 7, 2016 (Avanti Frozen CCR Request).

⁴ Id. at 2.

⁵ For a complete description of the Scope of the Order, see 10th AR, and accompanying Issues and Decision Memorandum at “Scope.”

This constitutes changed circumstances warranting a review of the order.⁶ Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d) and (e), we are initiating a changed circumstances review based upon the information contained in Avanti Frozen's submission.

Section 351.221(c)(3)(ii) of the Department's regulations permits the Department to combine the notice of initiation of a changed circumstances review and the notice of preliminary results if the Department concludes that expedited action is warranted. In this instance, because the record contains information necessary to make a preliminary finding, we find that expedited action is warranted and have combined the notice of initiation and the notice of preliminary results.

In this changed circumstances review, pursuant to section 751(b) of the Act, the Department conducted a successor-in-interest analysis. In making a successor-in-interest determination, the Department examines several factors, including, but not limited to, changes in the following: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.⁷ While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, generally, the Department will consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor.⁸ Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise,

⁶ See 19 CFR 351.216(d).

⁷ See, e.g., Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan, 67 FR 58 (January 2, 2002).

⁸ See, e.g., Fresh and Chilled Atlantic Salmon From Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 64 FR 9979, 9980 (March 1, 1999).

the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.⁹

In accordance with 19 CFR 351.216, we preliminarily determine that Avanti Frozen is the successor-in-interest to Avanti Feeds. Record evidence, as submitted by Avanti Frozen, indicates that Avanti Frozen operates as essentially the same business entity as Avanti Feeds with respect to the subject merchandise.¹⁰ For the complete successor-in-interest analysis, including discussion of business proprietary information, refer to the accompanying successor-in-interest memorandum.¹¹

Record evidence, as submitted by Avanti Frozen, indicates that the shrimp business was transferred fully from Avanti Feeds to its subsidiary, Avanti Frozen. Specifically, Avanti Frozen provided a Business Transfer Agreement which transfers Avanti Feed's entire shrimp business to Avanti Frozen; approvals from various governing entities approving/confirming the transfer of the shrimp business from Avanti Feeds to Avanti Frozen; letters notifying customers, suppliers, and employees of the business transfer; Avanti Frozen's first annual report; charts demonstrating the board of directors and equity stockholders of both Avanti Feed and Avanti Frozen; and a list of suppliers, customers, and production and business locations before and after the transfer.¹² In summary, Avanti Frozen presented evidence to support its claim of successorship and the

⁹ See, e.g., Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Preliminary Results of Antidumping Duty Changed Circumstances Review, 63 FR 14679 (March 26, 1998), unchanged in Circular Welded Non-Alloy Steel Pipe From Korea; Final Results of Antidumping Duty Changed Circumstances Review, 63 FR 20572 (April 27, 1998), in which the Department found that a company which only changed its name and did not change its operations is a successor-in-interest to the company before it changed its name.

¹⁰ See Avanti Frozen CCR Request.

¹¹ See Memorandum to Melissa G. Skinner, Director, Office II, entitled "Certain Frozen Warmwater Shrimp from India: Preliminary Successor-In-Interest Determination" dated concurrently with this notice.

¹² See Avanti Frozen CCR Request.

transfer did not impact any of the criteria that the Department typically looks to when making a changed circumstances determination.

We find that the evidence provided by Avanti Frozen is sufficient to preliminarily determine that the transfer of shrimp operations from Avanti Feeds to its subsidiary Avanti Frozen did not affect the company's operations in a meaningful way. Therefore, based on the aforementioned reasons, we preliminarily determine that Avanti Frozen is the successor-in-interest to Avanti Feeds and, thus, should receive the same antidumping duty treatment with respect to the subject merchandise as Avanti Feeds.

Public Comment

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice. In accordance with 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the case briefs, in accordance with 19 CFR 351.309(d). Parties who submit case or rebuttal briefs are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All comments are to be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, Room B8024 of the main Department of Commerce building, and must also be served on interested parties.²⁹ An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the day it is due.¹³

¹³ See 19 CFR 351.303(b).

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding. This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216(b), 351.221(b) and 351.221(c)(3).

Dated: October 24, 2016

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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